

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, JANUARY 24, 2000 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Seng; Council Members: Camp, Cook, Fortenberry, Johnson, McRoy, Shoecraft; Paul A. Malzer, Jr., City Clerk;

The Council stood for a moment of silent meditation.

**READING OF THE MINUTES**

FORTENBERRY Having been appointed to read the minutes of the City Council proceedings of Jan. 18, 2000, reported having done so, found same correct.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

**PUBLIC HEARING**

MAN. APP. OF JON MACKEY FOR FAMOUS DAVE'S RIBS-U, INC. DBA FAMOUS DAVE'S AT 2750 PINE LAKE RD.;

APP. OF FAMOUS DAVE'S RIBS-U, INC. FOR A LIQUOR CATERING LICENSE AT 2750 PINE LAKE RD.: Jon Mackey, Famous Dave's, 2750 Pine Lake Rd., took oath & came forward to answer questions

This matter was taken under advisement.:

AMENDING CHAPTER 5.06 OF THE LMC TO INCREASE THE EXAMINATION FEE FOR A FIRST-

CLASS & SECOND-CLASS ARBORIST'S CERTIFICATE FROM \$15.00 TO \$25.00 & TO INCREASE THE ANNUAL RENEWAL FEE FOR AN ARBORIST'S CERTIFICATE FROM \$4.00 TO \$10.00 - Jim Morgan, Director of Parks & Recreation Dept.: Steve Schwab had intended to be here today to do the presentation, but he had a death in the family, so I'm here as a second string person. I'm not sure all of you know what is involved in the licensing process for arborists.

These are typically small business owners who do commercial tree trimming on private property and commercial property throughout the City. In order for a person to become a first or second class arborist they're required to take a written examination which is administered by the Parks and Recreation Dept. And after the written, if they successfully pass the written examination they also have a field test on tree identification and pruning techniques. Our department does the printing of the tests, updating the tests as techniques and things change, scoring of the test, and many times we actually have to coach applicants after they've gone through the first testing in order to help them get through the second time they come back for the written test. Typically, they haven't been prepared for the difficulty of the written test. For people that are being re-certified, you know that they are required to carry insurance.

Our department keeps the master list, keeps track of all those being named as additional insured, and deletes people from names as their insurance evaporates. We also provide that list to homeowners who call and ask for a list of certified arborists before they have work done. So, we feel that the fee increase from \$15.00 to \$25.00 and from \$4.00 to \$10.00 is definitely warranted for the amount of Staff time that's now involved administering the program. We also have not changed this fee since 1992. So, we did send a mailing out, almost a 100 piece mailing two weeks ago to all the certified arborists and the small companies advising them of the public hearing today and I have not had a lot of phone calls.

Jim Haas, President of Lincoln Lawn and Tree Service Inc., 4015 S. 39th St.: This is my, I'm starting my 21st year in this industry. I'm certified with the Nebraska Arborist Assn. and licensed by the City of Lincoln. I oppose this increase to this program simply because with the increase in 1992 nothing different has been done with the program. There's just as many licensed arborists in the City of Lincoln now that have poor pruning techniques, put their lives in jeopardy, homeowner's lives in jeopardy, devalue of the tree through their pruning. And, I

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 456**

guess I would like to see something occur with the Forestry Department that might change those things. And, to this point that hasn't happened.

There have been many cases over the past several years, obviously, the storm of '93 and '97 where we went out to do work to clean that up and a lot of the work that we cleaned up were the result of poor pruning practices. The City engages and the subcontractors also engage in a technique that's called line-tailing, taking all outer limbs off branches and leaving the weight on the ends of branches which causes failure. Anyone can go up to the Meadow Lane neighborhood and see that and you can also go to Pioneers Park and see that. You can also see the after affect against the broken limbs that are hanging from those trees this time and also produces excess sucker growth which increases pruning again. I'm never opposed to paying my fair share. I don't have a problem with that, but I do have a problem with an agency that doesn't police an ordinance and this is an ordinance that's on the books right now. There's been no indication that I'm aware of that anyone has been fined, anyone's had a license restricted, revoked. This is a profession just like an electrician or a plumber that if they were to come to your house and do things inappropriately you would hope as a consumer that someone's there to back you up and make sure the work was done properly and that's not being done with this. And, I might also mention that this test that you have to pass, you have to get a D on that to pass that so if you want an arborist to come out to your property that has completed this test and has gotten a D on this and provide proof of insurance that's all it takes. And, right now all it takes to renew this is to come in with \$4.00 even if that goes up to \$10.00 even if it went up to \$500 it wouldn't make any difference you still have unqualified people doing the work on your property. And, with a licensing program in place I think it gives a bad impression to the homeowner when they think that I have a qualified person coming to my property to do this work for me. In many cases they're creating more problems than they're solving. Part of the reason I think there's not a lot of people here is that coincidently, and maybe it is a coincidence, but the Nebraska Arborist Association has their annual meeting in Omaha today and tomorrow and there's 150 licensed arborists up there. I'm also registered for that, but I chose to come down here. I still haven't gotten my mailing yet. I had one of my employees give me his mail that he got on Friday concerning this meeting. That could be part of the reason there's no, not any arborists here. That's all I have to say today.

Cindy Johnson, Council Member: Can I have the gentleman come back up, I need to ask a questions? How would this affect your business? How many people do you have on board or is it just yourself and your business? What will this increase do to you?

Mr. Haas: Well, I have four licensed arborists counting myself in the company. There's four that are certified with the Nebraska Arborist Association. So, it doesn't affect me one way or another, but I can give you an example of how Lincoln is kind of a laughing stock concerning this.

I had a call from Tennessee a couple of weeks ago who wanted to work in Lincoln and he wanted to get hooked up in Lincoln, and I said well right now we're full. We have plenty of employees. And, I said why are you coming to Lincoln just out of curiosity? He said he'd heard that Lincoln was a very easy place to work because the rules aren't enforced. So, as far as affecting me, it doesn't affect me. I'd just like to know what the money goes to and if there's ever going to, if an effort would be made to make, to make it more professional to enforce the rules that are already there. The ordinances are already in place, but they're not enforced.

Mr. Johnson: Do you have to be licensed with the State Arborist before you can get this, Jim?

Mr. Morgan: No. You do not have any other certification other than the City test to work within the City of Lincoln, but what's being confused here is that the ordinance does not dictate the state of the art of tree trimming. And, I use the word art because there's a great deal of difference when a person looks at a tree as to which limbs they will take out or not take out. The ordinance tells homeowners that people have the basic knowledge necessary to do arborist work within the City of Lincoln.

Many cities have no requirements. There's tremendous amount of competition in Lincoln. You constantly hear where one arborist calls and turns in another arborist because they didn't like the work that they did.

That's part of the business. Just like when you have a muffler changed if someone says you didn't need a new muffler. What we provide to the citizens is a knowledge that the person who's been there has, is knowledgeable of trees and safety practices and standard pruning. The questions that appear on the test are reviewed by the Community Forestry Advisory Board which are some of the most knowledgeable people from the University of Nebraska who are on that board. People from the landscaping community are on that board and we feel it's a good solid deal. Now, for \$10.00 are we expected to follow someone around the City and inspect their work? We don't claim to do that. We've never intended to do that, the ordinance doesn't talk about doing that.

Ms. Johnson: What are you going to do with that money then?

Mr. Morgan: Well, first of all it's a highly subsidized program to begin with. We cannot, just the amount of time necessary to certify and do the paperwork greatly exceeds the money that's generated by the licensing fees. And all that money does not go into the Parks Dept. it goes into your General Fund. So, it's not like we can do something with that money. It's part of the appropriation that may go back to Parks, or may not go back to Parks.

Ms. Johnson: Why do we have it in the first place? I mean why are we doing this if you can get certified by the State why are we doing it?

Mr. Morgan: I believe it probably came about because of problems either personal injuries or very poor work performed and the public outcry to say we need to establish a base level for people to work in our community.

Jonathan Cook, Council Member: On the job site does someone need to be there who's licensed by the City, but they can have people working for them who are not?

Mr. Haas: Correct.

Mr. Cook: And I guess a question regarding the fee. If we were to institute some policing program do you think raising the fee considerably to pay for that would be appropriate or ...?

Mr. Haas: Oh, I think so. I would kind of like to refer to that ordinance though. There is a paragraph about policing it from the Superintendent, Superintendent is responsible for that and that is in the ordinance. I can grab that real quick.

Mr. Morgan: I have a copy of the ordinance it refers to policing noncertified people. It says that if somebody is performing arborist work without being certified. We do bring that to the attention of the City Attorney and we probably do that two or three times a year.

Mr. Cook: This applies to work on any tree, City of private trees?

Mr. Morgan: For commercial work.

Mr. Cook: Does the City do inspections? I mean who's allowed to work on City trees? You hire people or can a homeowner hire someone and if, does the City ever followup and look at any of what's been done there?

Mr. Morgan: The homeowner would need to acquire a permit from the City of Lincoln to have a private person trim their tree and that would be done under the supervision of the City. An incident where that may be the case is if the person has a City street tree that really does not need pruning, that they may have purchased a motor home that they want to get in their driveway there may be lower limbs, we would not as a City. Taxpayers want to pay for an extra trim, but we would allow them to hire a certified arborist under our inspection.

Jeff Fortenberry, Council Member: When you say certified arborist that's only the City certification, there is no State certification?

Mr. Morgan: There are many levels of national certification for arborists. Our employees are nationally certified. But many of the people we deal with in Lincoln, it's like lawn care services and other groups that have significant turnover in staff. You know during 1997 cleanup I think if you had a chain saw and pickup truck you could be in the business. And, those people do come and go and that is a problem of quality as opposed to bonafide, long-term Lincoln business.

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 458**

Mr. Fortenberry: Do you think this a, what I hear the gentleman referring to is not necessarily a problem with the fee, in fact the fee may be for law to, in effect, police the industry as... does this policy program that you're heavily subsidized the Park Dept. worth it, is it working?

Mr. Morgan: It does work because of, there are people who don't meet the base standards that's in the ordinance or in the test. I'd be happy to bring copies of the test down if you'd like to see those and those people cannot legally work. Sometimes we find that they are. They give the homeowner a discount and then claim that it's a relative or something like that to get around the ordinance. It's very difficult to prosecute if they continue to operate without the certification.

This matter was taken under advisement.

**SPECIAL PERMIT 1816 - APPEAL OF DR. DONALD J. JORGENSEN TO THE PLANNING**

COMMISSION APPROVAL FOR THE EXCAVATION OF SOIL ON PROPERTY GENERALLY LOCATED SOUTH & EAST OF THE CORNER OF N.W. 40<sup>TH</sup> & W. VINE STS. - Mark Hunzeker, 530 S. 13th St., Suite B: I'm appearing on behalf of Chad Construction. As I mentioned to you a week ago this is a matter which was previously on the Planning Commission's agenda's, Planning Commission's consent agenda which was unanimously approved by the Planning Commission.

We have no objections to any of the conditions of approval and I guess we would try to answer any questions you may have about it. I'm sure they'll be some other testimony which we will, may or may not respond to. Thank you.

Donald L. Jorgensen, Fort Collins, CO.: I am the one who appealed this Special Permit the Planning Commission with a letter dated 12/14, December 14th. I represent my parents here, Clifford Jorgensen and Ruth Lee Jorgensen who are neighbors here. They own the 300 acres to the north of this property and they also own the 20 acres to the east of this property. I'm also representing myself. I own 40 acres, it's a quarter of a mile to the northeast of this property. I'm here today to request this Council deny this permit on the grounds that it will adversely impact the future land use and development in this area. Can I assume that you people are familiar with the letter I wrote and have read that? Then I won't, I'll just call your attention to that. I would like to point out a few objections I had in the fax sheet that I received from the Planning Commission. Probably the main one is, on the first few pages it has, whereas the community as a whole, the surrounding neighborhood and the real property adjacent to the area included within the site plan for the soil excavation will not be adversely affected by granting such a permit. That's probably the main part that I'm objecting to. I'd also like to call your attention to some language in that where it talks about erosion, drainage, ground water problems, fertility, thin top soil, dangerously steep grades for Vine. And, a question that I might have for you people is I did read in there where this property was outside the future urban area which was stunning to me that this area which is so close to downtown is outside an urban planning area. So I had a question on that. My goal for being here is I have a vision for this area that for projects other than the one, you know, the one that I mentioned and others, that I think would add tremendously to the community rather than detract. I'm trying to avoid permanent damage to the area because I think it has a tremendous potential to be rezoned and developed in the future. And, I would be happy to answer any questions you had for me.

Coleen Seng, Council Member: Maybe we want to ask Planning Staff to come and talk to us. Maybe that will help answer some of those questions.

Mr. Jorgensen: I might reiterate one other part, the last paragraph on the fact sheet was from Mr. Stewart. He said he supported the motion, but he is concerned about continuing to allow excavation along the Interstate which he believes permanently damages the major corridor into the City. He understands the need for top soil though there have been several projects where we have continued to allow desecration of the landscape along our Interstate. We're not in good position at this point to say no, but he hopes we can get in a better position to say no. Stewart suggested the first step would be to change zone along the

entryway corridor in the next update plan.

Mike DeKalb, Planning Staff:

Ms. Seng: Talk a little bit about if this is outside, talk a little bit about that.

Mr. DeKalb: As you, the Lincoln Lancaster County Comprehensive Plan defines an area to contain 20+ years growth that's defined as the future of the limits where we essentially are on public record of these are areas that we would intend to urbanize and provide City services through our water, Fire, and Police. This is not within the area of future urbanization. The reason why, it is kind of two fold; one is that their drainage basin goes up through this area and up to the southern area of south of Arnold Heights. That sewer line is not proposed to be constructed within the Planning period. Part 2 is that it's in the noise zone of the Airport and as far as residential use would be hindered.

Ms. Seng: OK, so it's in the noise zone ...

Mr. DeKalb: (inaudible) 65.

Ms. Seng: We don't have sewer there yet.

Mr. DeKalb: Right.

Ms. Seng: And, it's not planned in.

Mr. DeKalb: No, it's not within a planning period as far as providing urban services, that's correct.

Ms. Seng: So if someone wanted to develop this they would have to probably put in their own sewer line somewhere or a whole major trunk or something.

Mr. DeKalb: Well, actually if somebody wished to development, develop this it would probably be more, well, I think in the letter that you got from the applicant, the appeal indicated a potential golf course so a low intensity use like that might be appropriate. On the other hand it might be appropriate for commercial long-term, but if we don't have any utilities or anything including street construction to serve it that money would have to be found and brought into a capital improvement program and probably a comp plan amendment. It certainly would be appropriate during the comprehensive plan review upcoming to look at all of the basins. This will be one of those. So, it will be coming around again.

Ms. Seng: And, talk a little bit about when someone takes off topsoil 'cause we've got other areas around that this happens.

Mr. DeKalb: We normally have applications for special permits for topsoil removal or soil excavation on a regular basis. If you just go in and scrap it off there is no special permit required. This is for excavation. So, normally they're taking off a hill. They have to store the topsoil, put it on the side, take out the clay or whatever they are mining out and then bringing back to the grades that it has shown. They provide through, the special permit, we provide provisions for reclamation of that area and the grassing and so on, sediment control, runoff is done.

There are conditions in the special permit for Platte South NRD to approve runoff control and provisions like that. It's a fairly normal process. This one's asking for five years. Typically, we ask for one year renewals which is in the special permit. In this particular case it's a county road. Usually it's fairly substantial impact for truck traffic and so on on the County road system. The applicant in this case has an agreement worked out that's currently pending at the County Board for maintenance of that County road to the impact of the truck traffic.

Keith Carlson, General Manager of United Farm Management Co., Lincoln, NE: I'm manager of United Farm Management Company here in Lincoln which is connected with United Nebraska Banks. And, for 25 years I've also been the head of the Farm Management Department of the National Bank of Commerce. What I'm here today to tell you is to make sure that the Council is thinking long range on this. We manage this property that belongs to the Jorgensen family. I've known the Jorgensen family for probably over 30 years. The property in question, I did bring a map if you want to circulate it among anybody. What's outlined in yellow belongs to the Jorgensen family. What's outlined in red is the property that Noel Chadd plans to remove the dirt from. And, Noel Chadd and I have known each other for many years and we're good friends. The reason that I feel the need to testify about this is that I think maybe this is going to go

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 460**

through rather quickly and the dirt from the area, from what I've been told, was going to go to many other uses in Lincoln. One main purpose would possibly be the new baseball complex, which we're all in favor of.

The reason that I think there needs to be more thought put into this is that this is an area close to downtown that has some hills in it. From the Jorgensen property there's probably one of the most beautiful skylines of Capitol Beach and the Skyline of downtown Lincoln of any place that I've seen right around Lincoln. I'm a real estate broker and have been for over 30 years. I'm an accredited farm manager and an accredited rural appraiser. I think there's some terrific value on the Jorgensen property.

I'm not sure in my own mind at this day whether or not it's residential since it abuts the runway, the north-south runway of the Lincoln Municipal Airport or if it's commercial. I think a golf course would be an ideal setting, because you overlook the whole City including Capitol Beach. The thing that I think my clients, the Jorgensen's, are concerned about is that if you open this up and remove, and again I've been told somewhere upwards of a 100,000 cubic yards. I'm not sure if that's still the case or not, but if this is removed what we're going to have is the Jorgensen property next to the Interstate will be quite exposed. The sound from the Interstate, and I'm not sure if that's what exactly what, not only what the City who wants to have seen on the north side of the Interstate as you enter the City from the west, but also, I think, it might impact the value of the Jorgensen property unless there are some type of barriers or berms or trees or something planted and I guess without just going into this and removing all the dirt. From my position is I think there should be a little caution put on this and I'm not sure what the future plan really has to restore this back to a more natural setting. And, that's my position. I have been a homeowner and lived in Lincoln for 26 years. I'm very familiar with values around the outskirts of Lincoln. We have a lot of properties around the edge of Lincoln. And, the Jorgensen property, the family again is very close to me and I hate to see value damaged which I think could happen if all of this dirt is removed between the Interstate and the Jorgensen property which is proposed. Thank you.

Mr. Hunzeker: I think it's, I think I want to just to address a couple of things that have been said just to clarify for you what is being done on this property. It might help to (inaudible). The area that is owned by the Jorgensen's is this area north of west Vine Street. The area that is the subject of this permit is the cross hatched area here. This parcel here is a parcel which Noel has previously had a mining permit on and removed soil which was used in various projects about the City. With respect to the concern of the change in grade exposing the Jorgensen property to the Interstate, first of all the noise problem that they experienced comes from the fact that this is the end of the runway of the Lincoln Municipal Airport and this property is parallel to and less than a quarter of mile away from the end of the runway. As Mike pointed out, previously, this is within the noise contours that would make residential development very problematic. Secondly, we are not changing any grades along the Interstate right-of-way. The grades along there have to match up with the existing grades since we don't have and won't have the authority to do any grading within the Interstate right-of-way. We have to match up and back slope to the existing grades. So, to the extent that this property, or the Jorgensen property is somehow screened from view by elevations along the Interstate, those elevations will not change. The topsoil on this property will be stored. It'll be scraped off, stored, redistributed and redistributed on the property. As Mike's report points out, this is not prime agricultural land, but nevertheless we will be storing and redistributing the topsoil. As the conditions of approval point out we will be required to control erosion on the site. We will be required to get a permit and an NPPDS Permit for this project through the NRD as we have shown on the project plans and agreed to establish sediment traps on site to avoid excess sediment running down through the storm water. So, you know this is a project that is needed. The City and the baseball project, if nothing else, needs dirt. There are other projects that are waiting fill from this site. We have a number of these about the community. You need them in various locations so you don't have to haul

it miles and miles. It gets very, very expensive to haul it long distances. And, so we would ask that you approve this as the Planning Commission did unanimously.

Jon Camp, Council Member: I would like to ask Dr. Jorgensen a question if I could. You alluded earlier that you weren't sure what the future would hold for this land there that your family has and with the drawing that Mr. Hunzeker just showed in proximity to the runway, is it realistic at all to think that this is ever going to be a residential?

Mr. Jorgensen: I think it's possible. I'm not an expert on that. I know some of those sound maps were done previously when there was, you know, B-52 traffic and F-4 traffic out there, the traffic in Lincoln is down from what it used to be. The sound from planes is down from what it used to be. I don't think we'd ever put housing right along the runway, but the high ground is actually to the west on this property. So, if we could develop the, you know, the inner part for a golf course he could certainly have some surrounding areas that I think are outside. There's some residential people living there now. The tenant farmer lived there his whole life, lived well within that without a problem. Scott Frost lived on 10 acres right there when he grew up. So, there is some residential there now. If I were living in Lincoln I'd be out there planes or no planes.

Mr. Fortenberry: If Scott Frost did live there could this be deemed a historic site? No, I'm just kidding. I do have a serious question for you. The, regarding reclamation, you did mention as part of special permit this reclamation, could you just review that please?

Mr. DeKalb: As far as recommendation, they have reclamation. They are required to have a plan approved by Lower Platte South NRD that would replace the topsoil and then put in grass or cover throughout the site.

The slopes are as approved of the limit erosion. Sediment traps and so on are constructed to have three sediment shown on their plan to control that. So, technically in this case, which I think is the circumstance of the land, the current application immediately to the east, it's level, topsoil is replaced, put back into brome or something like that for cover.

And then often times is farmed as it had been in the past or put back into pasture. What happens actually the top of the hills have been cut off and taken away. It's been flattened off.

Mr. Fortenberry: Is that generally involved do you know?

Mr. DeKalb: In this particular case I think the report is something like 43' of cut in some of the areas as far as taking off the hill, the top of the hill. So, there are some substantial reductions in height relative to the existing grade.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

Mike Morosin, Past President Malone Neighborhood Assoc., 2055 S St.: He expressed his concern about problems with parking in the older neighborhoods such as parking by fire hydrants. He would like some signage referring to no parking by fire hydrants. In the area of 20th & S. St. some of the signs have been stolen, therefore there has been parking in the sidewalk area causing students in wheelchairs to have to go out into the street and come back around to the sidewalk. There's a hole in the street at 20th & S Street that needs patched. Thanks for getting the emergency communications working, but the blue light is still not working.

#### ORDINANCES - 3RD READING

AMENDING SEC. 8.20.050 OF THE LMC TO REFLECT CHANGES MADE TO THE NEBRASKA PURE

FOOD ACT - CLERK read an ordinance, introduced by Annette McRoy, amending Chapter 8.20 of the LMC, the Lincoln Food Code, by amending Section 8.20.050 regarding the adoption of sanitation standards and regulations to reflect changes made to the Nebraska Pure Food Act; and

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 462**

repealing Section 8.20.050 of the LMC as hitherto existing, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17590**, is recorded in Ordinance Book No. , Page

CHANGE OF ZONE 3217 - APP. OF RIDGEWOOD NEIGHBORHOOD ASSOC. FOR A CHANGE FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL ON PROPERTY GENERALLY LOCATED 1/4 MILE SOUTH & EAST OF THE CORNER OF S.W. 27TH ST. & W. DENTON RD. - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the LMC, as provided by Section 27.05.020 of the LMC, by changing the boundaries of the districts established and shown thereon, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17591**, is recorded in Ordinance Book No. , Page

AMENDING SECTION 6.08.160 OF THE LMC TO INCREASE THE MINIMUM FINE FOR BARKING DOGS TO \$50.00 - CLERK read an ordinance, introduced by Annette McRoy, amending Chapter 6.08 of the LMC by amending Section 6.08.160 relating to barking dogs to raise the minimum fines for first and second offenses and to specify the business premises of licensed veterinarians as an exception to the section; amending Section 6.08.350 to allow specific penalties under Section 6.08.160; and repealing Section 6.08.160 and 6.08.350 of the LMC as hitherto existing, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17592**, is recorded in Ordinance Book No. , Page

ESTABLISHING RESIDENTIAL & COMMERCIAL CLASSES OF GAS SERVICE & APPLICABLE RATES TO BE CHARGED BY PEOPLES NATURAL GAS FOR GAS SERVICE WITHIN THE CITY. (IN CONNECTION W/00-8) - CLERK read an ordinance, introduced by Annette McRoy, establishing residential and commercial classes of gas service and applicable rates to be charged by Peoples Natural Gas Company, Division of UtiliCorp united Inc. (Peoples), for gas service within the City of Lincoln, Nebraska (People's Rate Area Two), the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17593**, is recorded in Ordinance Book No. , Page

REAFFIRMING THE PREVIOUSLY APPROVED TARIFFS APPLICABLE TO THE TRANSPORTATION OF NATURAL GAS THROUGH THE 12-INCH NATURAL GAS PIPELINE WHICH IS CONNECTED TO THE DISTRIBUTION SYSTEM SERVING THE CITY (LINCOLN LATERAL). (IN CONNECTION W/00-7) - CLERK read an ordinance, introduced by Annette McRoy, reaffirming the previously approved tariffs applicable to the transportation of natural gas through the 12-inch natural gas pipeline which is connected to the distribution system serving the city of Lincoln, Nebraska, and which is commonly referred to as the Lincoln Lateral, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17594**, is recorded in Ordinance Book No. , Page

AUTHORIZING WIDENING, RECONSTRUCTION, & IMPROVEMENT OF E. "O" ST. FROM 52<sup>ND</sup> TO WEDGEWOOD DR. & ACQUISITION OF NECESSARY RIGHT-OF-WAY - PRIOR to reading:

COOK Moved to amend Bill No. 99-136 on page 2, strike lines 7 through 12 in their entirety and insert in lieu thereof the following:



Section 2. Detailed plans and specifications for the improvement of East "O" Street from 52nd Street to Wedgewood Drive shall provide for the construction of traffic signals and arterial street lighting. Potential amendments to the plan, marked as Attachment "A", and Recommendations on pages 5-6 of the East "O" Street Resolution Meetings Report, marked as Attachment "B", shall also be considered. The Department shall report to the Council on a periodic basis on its progress. The Department is authorized to acquire title to the right-of-way and permanent and temporary easements, by purchase if possible, or by condemnation if necessary, as needed to complete said construction from and over the following described lots and lands:

Seconded by Fortenberry & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read an ordinance, introduced by Annette McRoy, authorizing & directing the Dept. of Public Works & Utilities to proceed with the preparation of detailed plans & specifications for the widening, reconstruction, & improvement of East "O" Street from 52nd street to Wedgewood Dr.; to acquire necessary rights-of-way and easements relating thereto; and to proceed with construction thereof, as the authorized representative of the Nebraska Department of Roads (NDOR), the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17595**, is recorded in Ordinance Book No. , Page

APPROVING A LEASE AGRMT. BETWEEN THE CITY & PHANTOM, INC. FOR THE LEASE OF CITY OWNED PROPERTY FOR USE AS AN IMPOUND LOT FOR TOWED VEHICLES. (IN CONNECTION W/00R-5) - PRIOR to reading:

CAMP Moved to amend Bill No. 00-6 & contract to an extended 1-year lease at the present rate expiring 1/31/2001

Seconded by Johnson & carried by the following vote: AYES: Camp, Fortenberry, Johnson, McRoy, Shoecraft; NAYS: Cook, Seng.

CLERK Read an ordinance, introduced by Annette McRoy, accepting and approving a Lease Agreement between the City of Lincoln and Phantom, Inc. for the lease of City owned property for use as an impound lot for towed vehicles, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: Cook.

The ordinance, being numbered **#17596**, is recorded in Ordinance Book No. , Page

ANNEXING APPROX. 318 ACRES OF PROPERTY GENERALLY LOCATED NORTH OF HWY. 34, SOUTH OF ALVO RD., & WEST OF N. 1ST ST. (IN CONNECTION W/00-10, 00R-16, 00R-17, 00R-18, 00R-19, 00R-20) - CLERK read an ordinance, introduced by Annette McRoy, annexing approximately 318 acres of property generally located north of Hwy. 34, south of Alvo Rd., & west of N. 1st St., the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17597**, is recorded in Ordinance Book No. , Page

CHANGE OF ZONE 3202 - APP. OF NEBCO, INC. FOR A CHANGE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL, O-3 OFFICE PARK, & B-2 PLANNED NEIGHBORHOOD BUSINESS ON PROPERTY GENERALLY LOCATED NORTH OF HWY. 34, SOUTH OF ALVO RD., & WEST OF N. 1ST ST. (IN CONNECTION W/00-9, 00R-16, 00R-17, 00R-18, 00R-19, 00R-20) - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17598**, is recorded in Ordinance Book No. , Page

**SPECIAL PERMITS, USE PERMITS & PRELIMINARY PLATS**

SPECIAL PERMIT 1816 - APPEAL OF DR. DONALD J. JORGENSEN TO THE PLANNING

COMMISSION APPROVAL FOR THE EXCAVATION OF SOIL ON PROPERTY GENERALLY LOCATED SOUTH & EAST OF THE CORNER OF N.W. 40<sup>TH</sup> & W. VINE STS. - CLERK read the following resolution, introduced by Jerry Shoecraft, who moved its adoption:

A-79975 WHEREAS, Chadd Construction, Inc. has submitted an application designated as Special Permit No. 1816 for soil excavation on property located south and east of the corner of N.W. 40th Street and West Vine Street, and legally described to wit:

Lot 59 I.T., located in the Southwest Quarter of Section 20, Township 10 North, Range 6 East, Lincoln, Lancaster County, Nebraska; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public hearing on said application and by Resolution No. PC-00562 has conditionally approved Special Permit No. 1816; and

WHEREAS, Dr. Donald L. Jorgensen has appealed the action of the Lincoln City-Lancaster County Planning Commission approving Special Permit 1806; and

WHEREAS, the City Council of the City of Lincoln has held a public hearing thereon and finds that the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this soil excavation will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Chadd Construction, Inc., hereinafter referred to as "Permittee", to operate a soil excavation be and the same is hereby granted under the provisions of Section 27.63.360 of the Lincoln Municipal Code upon condition that operation of said soil excavation be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a soil, sand and gravel excavation for a one-year period which may be renewed by administrative amendment, on an annual basis, for up to five years from the date of approval of this special permit. Visual screening is not required as the boundary of the site is not adjacent to residential or park land, but the entrance shall be gated and the area fenced.

2. Before beginning excavation operations:

- a. The Permittee must submit a revised site plan to the Planning Department office for review and approval showing the following revisions:
  - i. The tree mass and drainage area proposed to be preserved.
  - ii. Revise Note 2 to reflect Lot 59 I.T.
  - iii. Add a note that the site shall be locked at all times of non-use.
  - iv. Revise the grading plan to the County Engineers' satisfaction to remove the hazardous condition created for the traveling public using West Vine Street.
  - v. Show the existing culverts under West Vine Street and make provisions for any required adjustments to the satisfaction of the County Engineer.
- b. Post a bond in the amount of \$5,000 to guarantee erosion control and the restoration of topsoil vegetation.
- c. Provide a plan showing the erosion control measures, and a phased vegetation replacement plan that is

satisfactory to the Lower Plat South NRD.

- d. Applications for driveways shall be approved by the County Engineer. The applicant shall be responsible to maintain West Vine Street road surface and to keep it free of mud and soil from this operation.
- e. Provide a dust control plan to the satisfaction of the Health Department.
- f. Enter a Road Maintenance Agreement with Lancaster County for West Vine and N.W. 27th Streets.
- g. State Department of Roads shall approve all use or activity on Interstate I-80 right-of-way.
- h. An NPDES Permit shall be approved.
- i. The construction plans must conform to the approved plans.

3. All privately-owned improvement shall be permanently maintained by the Permittee.

4. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee and the Permittee's successors and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

5. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SPECIAL PERMIT 1808 - APP. OF NEBCO, INC. TO DEVELOP FALLBROOK COMMUNITY UNIT PLAN CONSISTING OF 314 DWELLING UNITS ON PROPERTY GENERALLY LOCATED NORTH OF HWY. 23, SOUTH OF ALVO RD. & WEST OF N. 1<sup>ST</sup> ST. - CLERK read the following resolution, introduced by Jerry Shoecraft, who moved its adoption:

A-79981 WHEREAS, NEBCO, Inc. has submitted an application designated as Special Permit No. 1808 for authority to develop Fallbrook Community Plan consisting of 314 dwelling units on property located north of Highway 34, south of Alvo Road, and west of North 1st Street, and legally described to wit:

A portion of the North Half, a portion of Lot 2 I.T. and also a portion of the remaining portion of Lot 1 I.T., all located in Section 34, Township 11 North, Range 6 East of the 6th. P.M., City of Lincoln, Lancaster County, Nebraska, and more particularly described as follows:

Beginning at the southeast corner of said Section 34; thence on an assumed bearing of north 00 degrees 04 minutes 16 seconds east and along the east line of the Southeast Quarter of said Section 34, a distance of 1347.05 feet to a point; thence north 89 degrees 55 minutes 44 seconds west, a distance of 65.00 feet to the point of beginning, said point also being on the east line of said remaining portion of Lot 1 I.T.; thence north 89 degrees 55 minutes 44 seconds west, distance of 126.90 feet to a point of curvature; thence along a curve in a clockwise direction having a radius of 750.00 feet, arc length of 671.19 feet, delta angle of 51 degrees 16 minutes 31 seconds, a chord bearing of north 64 degrees 17 minutes 29 seconds west, and a chord length of 649.02 feet to a point of reverse curvature; thence along a curve in a counter-clockwise direction

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 466**

having a radius of 900.00 feet, arc length of 748.39 feet, delta angle of 47 degrees 38 minutes 39 seconds, a chord bearing of north 62 degrees 28 minutes 33 seconds west, and a chord length of 727.02 feet to a point; thence along a curve in a counter-clockwise direction having a radius of 104.00 feet, arc length of 122.33 feet, delta angle of 67 degrees 23 minutes 30 seconds, a chord bearing of north 37 degrees 49 minutes 32 seconds west, and a chord length of 115.40 feet to a point; thence north 18 degrees 28 minutes 43 seconds east, a distance of 58.68 feet to a point of curvature; thence along a curve in a counter-clockwise direction having a radius of 900.00 feet, arc length of 237.90 feet, delta angle of 15 degrees 08 minutes 43 seconds, a chord bearing of north 10 degrees 54 minutes 21 seconds east, and a chord length of 237.21 feet to a point; thence north 86 degrees 40 minutes 00 seconds west, a distance of 196.61 feet to a point; thence south 62 degrees 56 minutes 12 seconds west, a distance of 158.65 feet to a point; thence north 88 degrees 01 minutes 59 seconds west, a distance of 1032.72 feet to a point; thence north 50 degrees 56 minutes 17 seconds west, a distance of 187.51 feet to a point; thence north 00 degrees 00 minutes 00 seconds east, a distance of 98.91 feet to a point; thence along a curve in a clockwise direction, having a radius of 300.00 feet, arc length of 5.48 feet, delta angle of 01 degrees 02 minutes 49 seconds, a chord bearing of south 86 degrees 38 minutes 37 seconds west, and a chord length of 5.48 feet to a point of tangency; thence south 87 degrees 10 minutes 02 seconds west, a distance of 185.26 feet to a point; thence south 59 degrees 15 minutes 49 seconds west, a distance of 154.08 feet to a point; thence north 30 degrees 44 minutes 11 seconds west, a distance of 0.78 feet to a point of curvature; thence along a curve in a clockwise direction, having a radius of 3046.00 feet, arc length of 498.01 feet, delta angle of 09 degrees 22 minutes 03 seconds, a chord bearing of north 26 degrees 03 minutes 09 seconds west, and a chord length of 497.45 feet to a point; thence north 70 degrees 21 minutes 23 seconds east, a distance of 441.07 feet to a point of curvature; thence along a curve in a clockwise direction having a radius of 1030.00 feet, arc length of 353.14 feet, delta angle of 19 degrees 38 minutes 38 seconds, a chord bearing of north 80 degrees 10 minutes 42 seconds east, and a chord length of 351.41 feet to a point of tangency; thence south 89 degrees 59 minutes 58 seconds east, a distance of 369.06 feet to a point of curvature; thence along a curve in a counter-clockwise direction, having a radius of 270.00 feet, arc length of 193.83 feet, delta angle of 41 degrees 07 minutes 58 seconds, a chord bearing of north 69 degrees 26 minutes 02 seconds east, and a chord length of 189.70 feet to a point of tangency; thence north 48 degrees 52 minutes 03 seconds east, a distance of 306.84 feet to a point; thence along a curve in a counter-clockwise direction, having a radius of 854.00 feet, arc length of 311.05 feet, delta angle of 20 degrees 52 minutes 07 seconds, a chord bearing of south 41 degrees 21 minutes 06 seconds east, and a chord length of 309.33 feet to a point of reverse curvature; thence along a curve in a clockwise direction having a radius of 946.00 feet, arc length of 713.17 feet, delta angle of 43 degrees 11 minutes 39 seconds, a chord bearing of south 30 degrees 11 minutes 20 seconds east,

and a chord length of 696.40 feet to a point; thence north 83 degrees 13 minutes 31 seconds east, a distance of 60.48 feet to a point of curvature; thence along a curve in a clockwise direction, having a radius of 330.00 feet, arc length of 243.90 feet, delta angle of 42 degrees 20 minutes 48 seconds, a chord bearing of south 75 degrees 36 minutes 05 seconds east, and a chord length of 238.39 feet to a point of reverse curvature; thence along a curve in a counter-clockwise direction, having a radius of 720.00 feet, arc length of 497.29 feet, delta angle of 39 degrees 34 minutes 23 seconds, a chord bearing of south 74 degrees 12 minutes 52 seconds east, and a chord length of 487.46 feet to a point of tangency; thence north 85 degrees 59 minutes 56 seconds east, a distance of 107.93 feet to a point of curvature; thence along a curve in a counter-clockwise direction, having a radius of 270.00 feet, arc length of 253.16 feet, delta angle of 53 degrees 43 minutes 18 seconds, a chord bearing of north 59 degrees 08 minutes 17 seconds east, and a chord length of 243.99 feet to a point; thence south 57 degrees 43 minutes 22 seconds east, a distance of 190.00 feet to a point; thence north 25 degrees 40 minutes 53 seconds east, a distance of 105.68 feet to a point; thence south 70 degrees 54 minutes 52 seconds east, a distance of 47.19 feet to a point of deflection; thence south 00 degrees 04 minutes 16 seconds west along the east line of the said remaining portion of Lot 1 I.T., a distance of 1117.34 feet to the true point of beginning, said tract contains a calculated area of 57.67 acres, or 2,512,431.51 square feet more or less.

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of NEBCO, Inc., hereinafter referred to as "Permittee", to develop Fallbrook Community Plan consisting of 314 dwelling units, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 314 dwelling units. Secondary dwelling units which are either detached or attached to a single family dwelling unit on the same lot are approved provided that they are: under the same ownership as the single family unit, have less than 800 square feet of floor area, and have two or fewer bedrooms.

2. The requirements of Section 27.15.080 of the Lincoln Municipal Code for front, side, and rear yard setbacks for main and accessory buildings in the R-3 district are hereby waived.

3. Before receiving building permits:

- a. The Permittee must submit a permanent reproducible final site plan as approved.
- b. The Permittee must complete an administrative amendment which establishes appropriate setbacks and building envelopes for all structures in the single family and townhome areas.

4. Before occupying this development all development and construction must conform to the approved plans.

5. All privately-owned improvements, including landscaping, must

REGULAR MEETING

JAN. 24, 2000

PAGE 468

be permanently maintained by the Permittee, its successors and assigns.

6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a

copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

USE PERMIT 124 - APP. OF NEBCO, INC. TO DEVELOP 620,000 SQ. FT. OF COMMERCIAL SPACE & APPROX. 50 DWELLING UNITS ON PROPERTY GENERALLY LOCATED NORTH OF HWY. 34, SOUTH OF ALVO RD., & WEST OF N. 1<sup>ST</sup> ST. (IN CONNECTION W/00-9, 00-10, 00R-17, 00R-19, 00R-20) - PRIOR to reading:

SHOECRAFT Moved to amend Bill No. 00R-18 to read as follows:

Page 6, paragraph 4 c., lines 6 through 9 to read as follows:

4. Before receiving building permits:

The Permittee must provide an open space ~~conservation~~ easement over Outlot P, Said Outlot P will be developed in accordance with the Landscape Plan and Wetland Mitigation Plan of the Fallbrook Preliminary Plat, CUP and Use Permit, as may be amended;  
provided that, in the event some wetlands within Outlot P are mitigated, said mitigation will be provided for within the Fallbrook Preliminary Plat or within an area bounded by U.S. Highway 34, North 1st Street, Alvo Road, and Northwest 12th Street. ~~To ensure protection of the remaining and created wetlands area and provide for public access to open space.~~ The purpose of the easement is to ensure the open space characteristics of Outlot P and to restrict building development, except for the following permitted uses;

- i. educational open air and enclosed facilities and services to help foster awareness of wetlands, native and other plantings in natural, scenic or open conditions;
- ii. Recreational open air and enclosed facilities and services;
- iv. Trails, paths, driveways, golf cart paths, parking lots, directional signs, access lighting, and other related improvements for the uses described in section i through iv above.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read the following resolution, introduced by Jerry Shoecraft, who moved its adoption:

A-79982 WHEREAS, NEBCO, Inc. has submitted an application in accordance with Sections 27.27.080 and 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 124 for authority to construct 620,000 square feet of commercial space and approximately 50 dwelling units on property generally located north of Highway 34, and legally described to wit:

A portion of Lot 2 I.T. in the Southwest Quarter of Section 34, Township 11 North, Range 6 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska and more particularly described as follows:

Commencing at a point on the east line of said Southwest

Quarter, said point being on the south line of said Lot 2, said point being 125.00 feet north of the center line of right-of-way for U.S. Highway 34, and on the north line of said right-of-way; thence on a assumed bearing north 68 degrees 12 minutes 36 seconds west along the south line of said lot 2, a distance of 1172.11 feet to a point; thence north 21 degrees 47 minutes 24 seconds east, a distance of 57.77 feet to the true point of beginning; thence north 21 degrees 47 minutes 24 seconds east, a distance of 205.65 feet to a point of curvature; thence along a curve in a clockwise direction, having a radius of 600.00 feet, arc length of 409.56 feet, delta angle of 39 degrees 06 minutes 37 seconds, a chord bearing of north 41 degrees 20 minutes 42 seconds east, and a chord length of 401.66 feet to a point of tangency; thence north 60 degrees 54 minutes 01 seconds east, a distance of 323.28 feet to a point; thence south 55 degrees 58 minutes 38 seconds east, a distance of 230.00 feet to a point of curvature; thence along a curve in a counter-clockwise direction, having a radius of 200.00 feet, arc length of 71.26 feet, delta angle of 20 degrees 24 minutes 56 seconds, a chord bearing of south 66 degrees 11 minutes 06 seconds east, and a chord length of 70.89 feet to a point; thence south 13 degrees 16 minutes 12 seconds west, a distance of 152.08 feet to a point; thence south 00 degrees 00 minutes 00 seconds west, a distance of 281.06 feet to a point; thence south 76 degrees 25 minutes 25 seconds west, a distance of 486.46 feet to a point; thence north 87 degrees 10 minutes 41 seconds west, a distance of 279.32 feet to a point; thence north 68 degrees 12 minutes 36 seconds west, a distance of 100.00 feet to the true point of beginning, said tract contains a calculated area of 9.39 acres, or 409,352.86 square feet more or less; and also:

A portion of Lot 1 I.T. and a portion of Lot 2 I.T., all located in the South Half of Section 34, Township 11 North, Range 6 East of the 6<sup>th</sup> p.m., Lancaster County, Nebraska and more particularly described as follows:

Commencing at a point on the east line of the Southwest Quarter of said Section 34, said point being on the south line of said Lot 2, said point being 125.00 feet north of the center line of right-of-way for U.S. Highway No. 34, and on the north line of said right-of-way; thence on a assumed bearing north 00 degrees 28 minutes 30 seconds west along the east line of said Southwest Quarter, a distance of 549.85 feet to the true point of beginning; thence north 50 degrees 26 minutes 18 seconds west, a distance of 143.40 feet to a point; thence north 01 degrees 58 minutes 01 seconds east, a distance of 555.37 feet to a point; thence south 88 degrees 08 minutes 16 seconds east, a distance of 987.98 feet to a point; thence north 64 degrees 50 minutes 36 seconds east, a distance of 24.74 feet to a point; thence south 01 degrees 58 minutes 01 seconds west, a distance of 545.90 feet to a point; thence south 50 degrees 26 minutes 18 seconds west, a distance of 405.02 feet to a point; thence north 90 degrees 00 minutes 00 seconds west, a distance of 371.01 feet to a point; thence north 50 degrees 26 minutes 18 seconds west, a distance of 280.66 feet to the true point of beginning, said tract contains a calculated area of 16.82 acres, or 732,883.47 square feet more or less.

and also:

A portion of the remaining portion of Lot 1 I.T.,

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 470**

located in the Southeast Quarter of Section 34, Township 11 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, and more particularly described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence on a assumed bearing north 00 degrees 04 minutes 16 seconds east along the east line of said Southeast Quarter, a distance of 160.00 feet to a point; thence north 89 degrees 55 minutes 20 seconds west, a distance of 40.00 feet to a point of intersection with the west right-of-way line of Northwest 1<sup>st</sup> Street, said point being the true point of beginning; thence continuing north 89 degrees 55 minutes 20 seconds west along said north right-of-way line, a distance of 350.21 feet to a point of deflection; thence north 57 degrees 09 minutes 40 seconds west along said north right-of-way line, a distance of 206.30 feet to a point of deflection; thence north 68 degrees 13 minutes 39 seconds west along said north right-of-way line, a distance of 208.26 feet to a point of deflection; thence north 70 degrees 55 minutes 46 seconds west along said north right-of-way line, a distance of 400.45 feet to a point; thence north 19 degrees 04 minutes 14 seconds east a distance of 605.24 feet to a point; thence north 57 degrees 20 minutes 26 seconds east a distance of 424.81 feet to a point; thence north 64 degrees 37 minutes 22 seconds west, a distance of 67.00 feet to a point; thence north 59 degrees 07 minutes 40 seconds west a distance of 56.86 feet to a point; thence south 57 degrees 20 minutes 26 seconds west, a distance of 427.56 feet to a point; thence south 32 degrees 16 minutes 31 seconds west, a distance of 422.55 feet to a point; thence north 68 degrees 12 minutes 36 seconds west, a distance of 360.59 feet to a point; thence north 00 degrees 58 minutes 17 seconds west, a distance of 611.10 feet to a point; thence north 11 degrees 40 minutes 37 seconds east, a distance of 366.79 feet to a point; thence along a curve in a counter-clockwise direction, having a radius of 104.00 feet, arc length of 152.33 feet, delta angle of 83 degrees 55 minutes 16 seconds a chord bearing of north 60 degrees 23 minutes 48 seconds east and a chord length of 139.07 feet to a point; thence south 71 degrees 33 minutes 50 seconds east, a distance of 119.59 feet to a point of curvature; thence along a curve in a clockwise direction, having a radius of 1000.00 feet, arc length of 620.23 feet, delta angle of 35 degrees 32 minutes 12 seconds, a chord bearing of south 53 degrees 47 minutes 44 seconds east, and a chord length of 610.34 feet to a point of reverse curvature; thence along a curve in a counter-clockwise direction, having a radius of 600.00 feet, arc length of 667.35 feet, delta angle of 63 degrees 43 minutes 38 seconds, a chord bearing of south 67 degrees 53 minutes 27 seconds east, and a chord length of 633.48 feet to a point of reverse curvature; thence along a curve in a clockwise direction, having a radius of 1000.00 feet, arc length of 169.39 feet, delta angle of 09 degrees 42 minutes 19 seconds, a chord bearing of north 85 degrees 05 minutes 53 seconds east, and a chord length of 169.19 feet to a point on the west right-of-way line of Northwest 1<sup>st</sup> Street; thence south 00 degrees 04 minutes 16 seconds west along the west right-of-way line of Northwest 1<sup>st</sup> Street, a distance of 878.70 feet to a point of curvature; thence along a curve in a counter-clockwise direction, having a radius of 724.07 feet, arc



length of 190.82 feet, delta angle of 15 degrees 06 minutes 00 seconds, a chord bearing of south 07 degrees 28 minutes 44 seconds east, and a chord length of 190.27 feet to a point of deflection; thence south 00 degrees 04 minutes 16 seconds west along the west right-of-way line of Northwest 1<sup>st</sup> Street, a distance of 74.72 feet to the true point of beginning, said tract contains a calculated area of 37.10 acres, or 1,616,390.28 square feet more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this development of commercial space and dwelling units will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of NEBCO, Inc., hereinafter referred to as "Permittee", to develop 620,000 square feet of commercial space and approximately 50 dwelling units on the property legally described above be and the same is hereby granted under the provisions of Sections 27.27.080 and 27.31.100 of the Lincoln Municipal Code upon condition that construction and operation of said commercial development and dwelling units be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 620,000 square feet of floor area.
2. In the B-2 zoning district the City Council hereby waives or modifies the following requirements:
  - a. Section 27.31.090(e) of the Lincoln Municipal Code requiring open space for residential use is waived for dwelling units in the B-2 zoning district.
  - b. Section 27.31.090(a) is modified as follows:
    - i. The front, side, and rear yard setbacks for buildings is reduced to 0 feet.
    - ii. The side yard setback for parking stalls is reduced to 0 feet.
    - iii. The front yard setback for parking shall remain at 50 feet, except for a few locations (as shown in the Town Center example) where it is reduced to 15 feet.
    - iv. The front yard setback for signs is reduced to 0 feet, subject to signs remaining outside of sight triangles.
  - c. The requirement of Section 27.67.020 of the Lincoln Municipal Code is modified to reduce the required number of parking stalls by 50 in the B-2 District, if needed.
3. Prior to City Council action the Permittee must enter into an Agreement with the Director of Public Works relating to transportation improvements.
4. Before receiving building permits:
  - a. The Permittee must submit a permanent reproducible final site plan as approved.
  - b. The Permittee must receive approval of an administrative amendment for specific site, landscape, and grading plans.
  - c. ~~The Permittee must provide a conservation easement over Outlot P to ensure protection of the remaining and created wetlands area and provide for public access to the open space.~~ The Permittee must provide an open space easement over Outlot P, Said Outlot P will be developed in accordance with the Landscape Plan and Wetland Mitigation Plan of the Fallbrook Preliminary Plat, CUP and Use Permit, as may be amended;  
provided that, in the event some wetlands within Outlot P are

REGULAR MEETING

JAN. 24, 2000

PAGE 472

mitigated, said mitigation will be provided for within the Fallbrook Preliminary Plat or within an area bounded by U.S. Highway 34, North 1st Street, Alvo Road, and Northwest 12th Street. The purpose of the easement is to ensure the open space characteristics of Outlot P and to restrict building development, except for the following permitted uses;

- i. educational open air and enclosed facilities and services to help foster awareness of wetlands, native and other plantings in natural, scenic or open conditions;
- ii. Recreational open air and enclosed facilities and services;
- iv. Trails, paths, driveways, golf cart paths, parking lots, directional signs, access lighting, and other related improvements for the uses described in section i through iv above.

5. Before occupying any building all development and construction must conform to the approved plans.

6. All privately-owned improvements, including landscaping must be permanently maintained by the Permittee.

7. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

8. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.

9. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ACCEPTING & APPROVING THE PRE. PLAT OF FALLBROOK ADD. ON PROPERTY GENERALLY

LOCATED NORTH OF HWY. 34, SOUTH OF ALVO RD., & WEST OF N. 1<sup>ST</sup> ST.  
(IN CONNECTION W/00-9, 00-10, 00R-16, 00R-17, 00R-18, 00R-20) - CLERK read the following resolution, introduced by Jerry Shoecraft, who moved its adoption:

A-79983 WHEREAS, NEBCO, Inc. has submitted the preliminary plat of FALLBROOK ADDITION for acceptance and approval; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated December 3, 1999, which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the preliminary plat of FALLBROOK ADDITION, as submitted by NEBCO, Inc. is hereby accepted and approved, subject to the terms and conditions set forth in Exhibit "A", which is attached hereto and made a part of this resolution as though fully set forth verbatim.

BE IT FURTHER RESOLVED that the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of the subdivision requirements would result in actual difficulties or substantial hardship and the following modifications to the subdivision requirements are therefore approved:

1. The requirements of the subdivision design standards for cul-de-sac street design are waived for those cul-de-sacs as shown on the preliminary plat which do not meet those design standards.

2. The requirement of the subdivision design standards that

roadway platform approaches shall have a maximum slope of 2% is amended to allow a maximum slope of 3%.

3. The requirement of the subdivision design standards for sanitary sewers which prohibits the transfer of sanitary sewage from one drainage area to another is waived.

4. The requirement of the subdivision design standards for sanitary sewers which provides that the maximum depth of cover for sanitary sewers is 15 feet is waived to allow depth of the sanitary sewer to be greater than 15 feet.

5. The requirement of the subdivision design standards regarding tangent length for streets is waived for those locations as shown on the preliminary plat which fail to meet said standard.

6. The requirement of the subdivision design standards that prohibit sewer and water mains to be located on the same side of the street is waived to allow both on the same side of the street.

7. The requirement of Section 26.23.130 of the Lincoln Municipal Code that block lengths shall not exceed 1,320 feet between cross streets is waived for the blocks adjacent to North 1st Street, Alvo Road, and Highway 34.

8. The requirement of Section 26.27.010 of the Lincoln Municipal Code that all streets abutting and within the subdivision be paved with curb and gutters is waived in North 1st Street.

9. The requirement of Section 26.23.125 of the Lincoln Municipal Code that a pedestrian way shall be provided when a block exceeds 1,000 feet in length is waived for those blocks as shown on the preliminary plat which fail to meet this requirement.

10. The requirement of Section 26.23.040 of the Lincoln Municipal Code that cul-de-sacs on residential streets shall have a minimum right-of-way radius of 60 feet is waived for those cul-de-sacs as shown on the preliminary plat which do not meet this minimum requirement.

11. The requirement of Section 26.23.140(g)(1) of the Lincoln Municipal Code that lots front upon public streets or private roadways is waived for those lots as shown on the preliminary plat which do not meet this requirement.

12. The requirement of Section 26.23.110(a) of the Lincoln Municipal Code that, where public streets are continuations of an existing street, the existing street name shall be used is waived to permit the street name Fallbrook Blvd. west of North 1st Street.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

#### REPORTS TO CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON JAN. 10, 2000 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-79978 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed & approved, & the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments beginning 01/14/00)

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REPORTS FROM CITY TREASURER OF TELCOMM. OCC. TAX DUE AS FOLLOWS: JAN. - DEC., 1999: PREMIERE COMM.; JULY - SEPT., 1999: ZENEX; OCT.-DEC., 1999: TOUCH 1, CLARICOM; DEC., 1999: TELIGENT, BUSINESS TELECOM., WINSTAR, MATRIX, NETWORK BILLING, OPERATOR COMM., D&D COMM., WESTERN UNION, ONE

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 474**

CALL, CINCINNATI BELL, DESTIA, PRIMUS, ATLAS, OPEX, UNIDIAL, GLOBAL, RSL COM USA, NOS, NEXTLINK, GLYPHICS, STORMTEL, LDM SYSTEMS, TRI-M, INCOMNET, GTC, AFFINITY NETWORK, INACOM, GST NET, GLOBALCOM, WORLDTEL SERVICES - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF CASH ON HAND AT THE CLOSE OF BUSINESS DEC. 30, 1999 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

**OTHER RESOLUTIONS**

MAN. APP. OF JON MACKEY FOR FAMOUS DAVE'S RIBS-U, INC. DBA FAMOUS DAVE'S AT 2750 PINE LAKE RD. - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-79973 WHEREAS, Lone Star Steakhouse & Saloon located at 200 North 70th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Larry J. Mackey be named manager; WHEREAS, Larry J. Mackey appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Larry J. Mackey be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF FAMOUS DAVE'S RIBS-U, INC. FOR A LIQUOR CATERING LICENSE AT 2750 PINE LAKE RD. - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-79974 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinance, the City Council recommends that the application of Famous Dave's Ribs-U, Inc. for the issuance of a Catering Permit to the existing liquor license, located at 2750 Pine Lake Road, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all city and state regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF LINCOLN HOLDINGS, LTD. DBA YIA YIA'S FOR A CLASS "C" LIQUOR LICENSE AT 1423 O ST. - PRIOR to reading:

CAMP Moved to delay public hearing and action for one week to 1/31/00. Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

MAN. APP. OF NADER SEPAHPUR FOR LINCOLN HOLDINGS, LTD. DBA YIA YIA'S AT 1423 O ST. - PRIOR to reading:

CAMP Moved to delay public hearing and action for one week to 1/31/00. Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REAPPOINTING DONALD R. STADING & LLOYD HINKLEY TO THE BOARD OF DIRECTORS OF THE LINCOLN HOSPITAL ASSOCIATION FOR THREE YEAR TERMS EXPIRING DECEMBER 31, 2002 - CLERK read the following resolution, introduced by Jon Camp,

who moved its adoption:

A-79976 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the reappointment of Donald R. Stading and Lloyd Hinkley to the Board of Directors of the Lincoln Hospital Association for 3-year terms expiring December 31, 2002 is hereby approved.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING DATE OF MON., FEB. 7, 2000 AT 1:30 P.M. ON THE APP. OF DARREL D. & CHERYL G. WALTON DBA "THE SILVER SPUR" FOR A RETAIL CLASS "C" LIQUOR LICENSE AT 5100 N. 48<sup>TH</sup> ST. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-79977 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Feb. 7, 2000, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the following App. of Darrel D. & Cheryl G. Walton dba "The Silver Spur" for a Retail Class "C" Liquor License at 5100 N. 48th.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING A 4-YR. CONTRACT BETWEEN THE CITY & PHANTOM, INC. FOR VEHICULAR TOWING & STORAGE. (IN CONNECTION W/00-6) - PRIOR to reading:

MCROY Moved to amend Bill #00R-5 on page 7 of Attachment "A" (Contract with Phantom, Inc.) At the end of paragraph 6, Storage of Vehicles: Impound Lot, add a new paragraph as follows:

(g) Contractor agrees that it will not use Y Street, New Hampshire street, and /or Charleston Street for towing/transporting cars to the Impound Lot unless the tow/transport originates on Y Street, New Hampshire Street, Charleston Street, or within three blocks of these streets and west of 13th Street.

Seconded by Shoecraft & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SHOECAFT Moved to amend Bill #00R-5 changing a 4-year contract to a 1-year contract expiring 1/31/2000.

Seconded by Johnson & carried by the following vote: AYES: Camp, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: Cook.

CLERK Read the following resolution, introduced by Jerry Shoecraft, who moved its adoption:

A-79979 WHEREAS, the City of Lincoln desires to renew a four-year contract with Phantom Inc. vehicular towing and storage services; and  
WHEREAS, the City of Lincoln and Phantom Inc. are agreeable to renew a four-year contract for such purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the ~~four~~ one year contract, expiring 1/31/2000, between Phantom Inc. and the City of Lincoln, Nebraska, a copy of which contract is attached hereto, marked as Attachment "A" and made a part hereof by reference, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to return one full executed copy of said contract to Phantom Inc. and one copy of said contract to the Lincoln Police Department.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: Cook.

COMP. PLAN AMENDMENT 94-41 - AMENDING THE 1994 COMPREHENSIVE PLAN TO EXTEND THE FUTURE SERVICE LIMITS & TO CHANGE THE LAND USE PLAN, FUNCTIONAL CLASSIFICATIONS, FUTURE RD. NETWORK, & FUTURE WATER SYSTEM ON PROPERTY GENERALLY LOCATED NORTH OF HWY. 34, SOUTH OF ALVO RD., & WEST OF N. 1<sup>ST</sup>

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 476**

STREET. (IN CONNECTION W/00-9, 00-10, 00R-17, 00R-18, 00R-19, 00R-20) -  
CLERK read the following resolution, introduced by Jerry Shoecraft, who  
moved its adoption:

A-79980

WHEREAS, the Planning Director has made application to amend the  
Lincoln City-Lancaster County Comprehensive Plan (1994) to revise  
the future service limit to designate property generally located at North  
1st Street and Highway 34 as inside the "Future Service Limit" and to  
amend the land use, phasing, water, and road network portions; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has  
recommended approval of said proposed change.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
Lincoln, Nebraska:

That the Lincoln City-Lancaster County Comprehensive Plan (1994) be  
and the same is hereby amended as follows:

1. Revise Figure 16 (Lincoln's Land use Plan, page 39) to change  
the Future Land Use of property from Urban Residential and Commercial to  
Public/Semi-Public, Commercial, and Urban Village as shown on the map  
which is attached hereto as Attachment "A".

2. Revise Figure 27 (Functional Street and Road Classification:  
Future, Page 93) to change the classification of North 1st Street from  
Highway 34 to Humphrey Ave. from Urban Collector to Minor Arterial and  
North 1st Street from Humphrey Ave. to Alvo Road from unclassified to  
Minor Arterial.

3. Revise Figure 28 (Proposed Changes in Functional  
Classifications, page 95) to show North 1st Street from Highway 34 to Alvo  
Road as "Unclassified to Minor Arterial."

4. Revise Figure 31 (Improvements for Future Road Network: 1-20  
Year Program, page 99) to change the designation of North 1st Street from  
Highway 34 to 1,000 feet north of Fletcher from "(D/F) Four Through Lanes,  
Left Turn Lane, Raised Medians, 100 Ft. ROW" to "(D+) Four Through Lanes,  
Two Left/One Right Turn Lane, Raised Medians, 120 Ft. ROW."

5. Revise Figure 44 (Major Future Water System Improvements for  
the Lincoln Water System, page 131) to reflect as needed the necessary  
future water mains in the area of N.W. 12th to North 1st Street, from  
Highway 34 to Alvo Road.

6. Revise Figure 65, (Lincoln Service Limit and Phasing Plan, pg.  
197) to change the designation of the property in the 318 acres in the  
Fallbrook preliminary plat from Phase II and III to Phase I. Change the  
remaining area inside the Future Service Limit that is north of Highway 34  
and east of N.W. 12th Street from Phase III to Phase II.

BE IT FURTHER RESOLVED that any other references in said plan which  
may be affected by the above-specified amendments be, and they hereby are  
amended to conform with such specific amendment.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp,  
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING AN ANNEXATION AGRMT. BETWEEN THE CITY & NEBCO, INC. WITH REGARD TO THE  
ANNEXATION OF APPROX. 318 ACRES OF LAND GENERALLY LOCATED NORTH OF  
HWY. 34, SOUTH OF ALVO RD., & WEST OF N. 1<sup>ST</sup> ST. (IN CONNECTION W/00-9,  
00-10, 00R-16, 00R-17, 00R-18, 00R-19) - PRIOR to reading:

SHOECAFT Moved to approve a substitute agreement, Version 2.

Seconded by Johnson & carried by the following vote: AYES: Camp,  
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read the following resolution, introduced by Jerry Shoecraft, who  
moved its adoption:

A-79984

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Conditional Annexation and Zoning  
Agreement for Fallbrook ("Annexation Agreement"), which is attached  
hereto, marked as Attachment "A" and made a part hereof by reference,  
between the City and NEBCO, Inc. (Owner) outlining certain conditions and  
understandings between the City and said Owner relating to the annexation  
and rezoning of approximately 318 acres of land generally located north of  
Highway 34, south of Alvo Road and west of North 1st Street, is approved.

BE IT FURTHER RESOLVED that in the event additional right-of-way or

easements must be acquired for the completion of the transportation improvements provided for in this Annexation Agreement, such property rights may be acquired by negotiation and purchase or by condemnation, if necessary, as provided by law.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Agreement with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Jerry Shoecraft

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

#### ORDINANCES - 1ST & 2ND READING

AMENDING SECTION 9.16.230 OF THE LMC TO DEFINE "NUDITY" & TO MAKE IT UNLAWFUL FOR

A PERSON TO APPEAR IN ANY PUBLIC PLACE IN A STATE OF NUDITY OR FOR AN EMPLOYEE OR PERFORMER TO HAVE ANY PHYSICAL CONTACT WITH ANY PATRON - CLERK read an ordinance, introduced by Jon Camp, whereas, the City Council recognizes and believes the public health, safety, and welfare of the community to be adversely effected by public nudity, not only as an offense to the protection of order and morality in the community but also due to secondary adverse effects of public nudity including, but not necessarily limited to, prostitution, assaultive behavior, and other related criminal behavior, the first time.

AMENDING SECTION 10.06.120 OF THE LMC TO PROVIDE FOR A FINE FOR PARKING OF TRUCKS

OR OTHER OVERSIZED VEHICLES ON STREETS ADJACENT TO RESIDENTIALLY ZONED PROPERTY - CLERK read an ordinance, introduced by Jon Camp, amending Chapter 10.06 of the Lincoln Municipal Code relating to the administration & enforcement of vehicles and traffic by amending Section 10.06.120 to provide for a specific parking fine for a violation of Lincoln Municipal Code section 10.32.070 which places prohibitions on the parking of trucks and other oversized vehicles on streets adjacent to residentially zoned property; and repealing Section 10.06.120 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 3182 - APP. OF THE B & J PARTNERSHIP & THE PLANNING DIRECTOR FOR

A CHANGE FROM R-2 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS & FROM R-2 RESIDENTIAL TO P PUBLIC ON PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE. & W. "A" ST. (IN CONNECTION W/00-17, 00R-27) - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established & shown thereon, the first time.

DECLARING APPROX. 0.9 ACRES OF PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE.

& W. "A" ST. AS SURPLUS & AUTHORIZING THE SALE THEREOF. (IN CONNECTION W/00-16, 00R-27) - CLERK read an ordinance, introduced by Jon Camp, declaring a tract of City-owned property generally located at South Coddington Avenue and West "A" Street as surplus and authorizing the sale thereof to B & J Partnership, the first time.

CHANGE OF ZONE 3230 - AMENDING SECTION 27.55.040(D) OF THE LMC TO DELETE THE

REFERENCE TO MEAN SEA LEVEL & ADD A REFERENCE TO NORTH AMERICAN VERTICAL DATUM (NAVD) 1988 - CLERK read an ordinance, introduced by Jon Camp, amending Section 27.55.020 of the Lincoln Municipal Code to delete the reference to mean seal level and add a reference to North American Vertical Datum (NAVD) 1988; and repealing Section 27.55.040 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 3223 - AMENDING SECTION 27.07.080 OF THE LMC TO ALLOW FOR COUNTY ROAD RIGHT-OF-WAY TO BE INCLUDED IN LOT AREA UNDER CERTAIN

**REGULAR MEETING**

**JAN. 24, 2000**

**PAGE 478**

CIRCUMSTANCES - CLERK read an ordinance, introduced by Jon Camp, amending Section 27.07.080 of the Lincoln Municipal Code to reflect county language and to allow for county road right-of-way to be included in lot area under certain circumstances; and repealing Section 27.07.080 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 3226 - APP. OF BRIAN D. CARSTENS & ASSOCIATES FOR A CHANGE FROM I-2 INDUSTRIAL ARK TO H-3 HIGHWAY COMMERCIAL ON PROPERTY GENERALLY LOCATED AT APPROX. W. COMMERCE WAY & W. BOND ST., NEAR N.W. 12TH ST. - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

CHANGE OF ZONE 3228 - APP. OF JEROME HITTNER FOR A CHANGE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED EAST OF S. 84TH ST. & 200' NORTH OF OLD CHENEY RD. - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

AMENDING SECTION 2.76.150 OF THE LMC TO REMOVE THE REQUIREMENTS THAT PAY INCREASES FOR EXCEPTIONAL SERVICE BE APPROVED BY THE MAYOR AND TO PROVIDE THAT THE DIRECTOR OF PERSONNEL ANNUALLY SEND A WRITTEN REPORT TO THE MAYOR LISTING EMPLOYEES APPROVED FOR EXCEPTIONAL SERVICE PAY INCREASES - PRIOR to reading:

CAMP Moved to remove Bill No. 00-22 from the agenda.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING A TRANSFER OF APPROPRIATIONS WITHIN THE WATER CONSTRUCTION FUND OF \$360,000.00 FROM CAPITAL IMPROVEMENT PROJ. NO. 506220 (48" WATER MAIN FROM 77TH & VINE ST. TO 84TH TO SE RESERVOIR AT 84TH & YANKEE HILL RD.) TO CAPITAL IMPROVEMENT PROJ. NO. 701178 (16" WATER MAIN IN PINE LAKE RD. FROM 84TH TO 98TH STS.; & \$130,000.00 FROM CAPITAL IMPROVEMENT PROJ. NO. 701175 (WATER MAIN IN YANKEE HILL RD., FROM 20TH TO 14TH STS. & 1/4 MILE NORTH) TO CAPITAL IMPROVEMENT PROJ. NO. 506050 (SUBSIDIES) - CLERK read an ordinance, introduced by Jerry Shoecraft, approving the transfer of appropriations between certain capital improvement projects within the Water Construction Fund, the second time.

AMENDING CHAPTER 5.06 OF THE LMC TO INCREASE THE EXAMINATION FEE FOR A FIRST-CLASS & SECOND-CLASS ARBORIST'S CERTIFICATE FROM \$15.00 TO \$25.00 & TO INCREASE THE ANNUAL RENEWAL FEE FOR AN ARBORIST'S CERTIFICATE FROM \$4.00 TO \$10.00 - CLERK read an ordinance, introduced by Jerry Shoecraft, amending Chapter 5.06 of the LMC relating to Arborists by amending Sec. 5.06.060 to increase the examination fee for a first-class arborists's certificate from \$15.00 to \$25.00 & for a second-class arborist's certificate from \$15.00 to \$25.00; by amending Sec. 5.06.100 to increase the annual renewal fee for an arborist's certificate from \$4.00 to \$10.00; & repealing Secs. 5.06.060 & 5.06.100 of the LMC as hitherto existing, the second time.

**MISCELLANEOUS BUSINESS**

**PENDING LIST -**



CHANGE OF ZONE 3187 - AMENDING CHAPTER 27.69 OF THE LMC TO AMEND THE SIGN ORDINANCE TO REQUIRE 800' BETWEEN OFF-PREMISE SIGNS - CLERK requested to remove for Action on 1/31/00

CAMP           So moved.

                  Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

VACATING HACKBERRY LN. BETWEEN ANTHONY LN. & E. HILLCREST DR., LOCATED IN THE THREE-MILE JURISDICTION OF THE CITY - CLERK requested to remove for Public Hearing & Action on 1/31/00.

JOHNSON       So moved

                  Seconded by Shoecraft & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CAMP           Moved to extend the Pending List for 1 week.

                  Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

**UPCOMING RESOLUTIONS -**

APPROVING THE QUE PLACE NOTCH REDEVELOPMENT AGREEMENT BETWEEN THE CITY & CONCORD HOSPITALITY INC. WHICH AUTHORIZES THE SALE OF PROPERTY & THE DEVELOPMENT OF A RESTAURANT AT LOT 1, QUE PLACE ADD. TO BLOCK 36 - CLERK requested to remove from the agenda of upcoming meeting of 1/31/00.

COOK           So moved.

                  Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CAMP           Moved to approve the resolutions to have Public Hearing on Jan. 31, 2000.

                  Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

**ADJOURNMENT**

**3:40 P.M.**

CAMP           Moved to adjourn the City Council Meeting of Jan. 24, 2000.

                  Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

So ordered.

---

Paul A. Malzer, Jr., City Clerk

---

Judy Roscoe, Office Assistant III

REGULAR MEETING  
JAN. 24, 2000  
PAGE 480